

Minutes of a Public Hearing held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Thursday, September 30, 1999 at 1:00 p.m.

**Present:**

Barbara Grattan,  
Laurie Dowd, Esq.,  
Leroy Barnes,

Town Clerk  
Deputy Town Attorney  
Building Department Administrator

Public Hearing opened: 1:11 a.m.

Barbara Grattan: "Let the record show that the hour of 1:11 has arrived. This public hearing is open. I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York at 1:00 p.m. on September 30, 1999 regarding Chapter 54 Unsafe Buildings and Collapsed Structures, property owned by Greenport Landing Corp. located at 1251 Osborne Avenue, Riverhead."

Laurie Dowd: "This public hearing is opened. Does the building official have any recommendations to make on this?"

Leroy Barnes: "Yes, Leroy Barnes, Building Department Administrator. I'm asking that you adjourn this case until October 28th due to a leave of absence of the inspector and also the property owner is made aware of it and I spoke to him today and he agreed to return on the 28th with some corrections. So we will be making some inspection in the field on October 14th and then we will be back to hearing on the 28th."

Laurie Dowd: "Is there anybody here today on that item that wants to speak regarding the adjournment? Did you raise your hand?"

Unidentified: "No, I just-- I was in the building so I came by. I'm Greenport Landing. Yes, I'll be here on the 28th."

Laurie Dowd: "Okay. Then this item will be adjourned to October 28th."

Hearing closed

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Public Hearing opened: 1:14 p.m.

Barbara Grattan: "Okay, let the hour of 1:14 has arrived. I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York at 1:05 p.m. on September 30, 1999 Chapter 54 Unsafe Buildings and Collapsed Structures property owned by Alfred Koch located at 2227 Sound Avenue, Baiting Hollow, New York."

Alfred Koch: "That's me."

Laurie Dowd: "Great. We'll get to you in just a minute. You are welcome to come up and sit next to Mr. Barnes if you want but at this point we're going to be asking for the Town to present its side of the case and then when they're done, you can present your side. All right?"

Alfred Koch: "I would like to show something so we can possibly save everybody a lot of time."

Laurie Dowd: "Well, we're going to do this in order, all right. So-- "

Bruce Johnson: "Tax map number is 61-4.6-- is that what you have as part of the-- "

Laurie Dowd: "Yes, 61-2.4.0 (inaudible) 2227 Sound Avenue. Would you state your name and position with the Town of Riverhead. Well, first I better swear you in. Raise your right hand. So you promise to tell the truth, the whole truth and nothing but the truth, so help you God?"

Bruce Johnson: "Yes, I do."

Laurie Dowd: "All right. State your name and position with the Town of Riverhead."

Bruce Johnson: "Bruce Johnson, Fire Marhsal, Town of Riverhead."

Laurie Dowd: "And what are your qualifications to review unsafe structures pursuant to Chapter 54 of the Riverhead Town Code?"

Bruce Johnson: "I was appointed Fire Marshal for the Town of Riverhead on April 13, 1998. I'm a certified New York State Building and Fire Prevention Code Enforcement official, certificate number is 02997031A. I perform hundreds of commercial building and general fire safety inspections in accordance with the New York State Code and the National Fire Protection Association Codes and Standards. I'm a certified New York State Fire Cause and Origin Investigator Level II.

My education includes a Bachelor's Degree in Accounting, a Masters Degree in Finance and Real Estate and a Bachelor of Fire Science from Empire State. I have numerous training certificates from the National Fire Academy, New York State Fire Academy, Suffolk County Fire Academy in the topics of firefighting, building construction, safety management, incident command and hazardous materials.

My experience includes 18 years as a volunteer firefighter including five years as a chief officer. I'm currently an adjunct college professor with the Fire Science program at Empire State and I am a training instructor for the Academy at Suffolk County."

Laurie Dowd: "We will submit that on the record-- to be included in the record. Now, sir, did you inspect the property owned by Mr. Alfred Koch located at 2227 Sound Avenue in Baiting Hollow?"

Bruce Johnson: "Yes, I did."

Laurie Dowd: "When did you perform that inspection?"

Bruce Johnson: "That inspection was done on August 23, 1999."

Laurie Dowd: "What did you find when you did that inspection?"

Bruce Johnson: "On that property was a structure that from its appearance and my observations was structurally-- "

Alfred Koch: "When was that inspection done, please?"

Laurie Dowd: "It was-- I believe he said August 23."

Bruce Johnson: "August 23."

Alfred Koch: "That's not what I read here."

Laurie Dowd: "All right. You'll have an opportunity to make your pitch. Finish up there."

Bruce Johnson: "The structure, again, was found and observed to be structurally unsafe and structurally dangerous. There was an occasion where our code enforcement officer just prior to that inspection also reported that there were a number of children observed within this building and we feel that to be a very serious safety issue."

The building suffers from inadequate maintenance. It's dilapidated and it shows signs of abandonment. Specifically there were numerous exterior doors open or missing, broken windows, structural leaks. There were railings missing on stairways. Steps were in an unsafe condition. Shingles were missing on the side of the building. There was rotten fascia board on the side of the building.

There's an open cesspool, drywell on the northeast corner of the property. There's exposed wiring, there's no electrical meter on the building. There is a power line coming from the house, it's unable to tell if that power line is energized but that's a potentially unsafe condition.

The building shows signs of vandalism and, again, as I mentioned unlawful trespassing by juveniles that was observed by our Code Enforcement Officer. The grounds and buildings have an accumulation of trash and household garbage and there's a large accumulation of trash and debris within the structure.

So those were the findings during that inspection."

Laurie Dowd: "When did you post that property?"

Bruce Johnson: "The property was posted on August 23rd. And if I can correct the record according to the paperwork, the inspection was performed on August 20th, not August 23rd. The inspection was the 20th and the posting of the property was three days later on the 23rd."

Laurie Dowd: "Thank you. What is your recommendation for Town

Board action on this matter?"

Bruce Johnson: "The property-- this structure doesn't appear to have any useful life. In discussions with the property owner, he's been uncooperative, unwilling to do anything to secure the property. Based on its current condition and the appearance that this property does not have the use, the property should be immediately removed, the structure demolished, basement filled in and made safe. That's the recommendation of the town-- the town Building Department."

Laurie Dowd: "What's the size of the structure again?"

Bruce Johnson: "It's a two story structure. I don't have the exact dimensions, but it's probably roughly 20 by 40 foot (inaudible)."

Laurie Dowd: "Okay. Is there anything else you'd like to add to your testimony?"

Bruce Johnson: "Not at this time."

Laurie Dowd: "All right, Mr. Koch, you're here today?"

Alfred Koch: "Yes, that's me."

Laurie Dowd: "May I swear you in? Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?"

Alfred Koch: "Yes, I do."

Laurie Dowd: "All right. Would you like to give us your views on this instance?"

Alfred Koch: "Well, I'd like to ask a couple questions before I give my views. How does this gentleman support his views? Does he have any pictures? I have pictures."

Laurie Dowd: "Mr. Johnson, do you have any pictures of this property?"

Bruce Johnson: "I do not, I just offer my testimony and observations that have been read into the record."

Laurie Dowd: "Right."

Alfred Koch: "So, as I hear correctly then, the sole extent of this gentleman's proof to support his position is what he thinks. No pictures, no verification from anyone else."

Laurie Dowd: "It's his observations based on his knowledge and experience."

Alfred Koch: "Okay."

Laurie Dowd: "What do you have, Mr. Koch?"

Alfred Koch: "We-- pardon?"

Laurie Dowd: "I say, what do you have?"

Alfred Koch: "We'll come to that. Let me direct my own questioning, please. You said an inspector made an observation of juveniles on the property?"

Bruce Johnson: "That is correct."

Alfred Koch: "Just by coincidence the same day that you were there?"

Bruce Johnson: "I think if I may on this property, we had done some inspections prior to the August 20th date. Part of those inspections we gave written notification to Mr. Koch about abandoned and junked vehicles on the property, some debris outside and brought to his attention the unsafe condition of the structure that's being questioned here today. Mr. Koch was cooperative, we gave him time to remove the vehicles and do some cleaning of the debris outside so we felt we were getting good cooperation with him. The-- we were doing periodic inspections of the property to make sure that those junked vehicles and that the trash was being removed as Mr. Koch had promised to do so looking for voluntary compliance.

It was during one of those routine inspections that the Code Enforcement Officer observed juveniles in the building. We had a conversation-- I personally had a conversation with Mr. Koch advising him that we had observed juveniles in the building, reminding him that-- the fact that the structure was open in so many places and unsafe, that there was a large accumulation of debris, we did not want to see any children entering this building unlawfully and getting hurt. We made-- I made him aware of that in a phone conversation. Mr.

Koch felt that it was not his obligation as the property owner to take further steps to secure this building.

So it was based on the history, us being out there looking at other violations on the property, making him aware of unlawful entry, and his refusal to voluntarily secure the building that has brought us to the posting and the Chapter 54 hearing."

Laurie Dowd: "Well, Mr. Koch, I think that answers your question regarding his observations of the juveniles. Do you have any other points to make?"

Alfred Koch: "Well, I find it incredulous that children-- juveniles would be in my building when there are no juveniles. There's no juveniles to the north of me, to the south of me-- to the east of me and to the south of me is a farm. Across the street from me is another farm. Across the street from that is (inaudible)-- it's a restaurant. Across the street from that is Ivy League-- it's a nursery. There are no children there, ever. I've owned that property four-- 12 years, excuse me, not 14, 12 years. I've never seen a child in the area, except some children that occupied the house that I own. And if some children are occupying the house that I own, that's not-- we don't have a problem with that.

If this alleged inspection was made, show me some proof. That's what I need to see. I need to see some proof. Take a picture of these juveniles."

Laurie Dowd: "Well, Mr. Koch, do you have any evidence that you'd like to submit today?"

Alfred Koch: "Yes, but I'm not done yet. Okay. I'm not done yet at all. Because we have another case anyway. Further, my property is fenced, it's fenced. There's a fence that runs the entire length of my property along Twomey Avenue and along-- also along Sound Avenue."

Laurie Dowd: "What kind of fence is it?"

Alfred Koch: "It's a post and rail fence, you know. It's-- no it doesn't stop anybody from coming in if they wish to climb between, over or under, no, that doesn't stop-- but the fence is there. The fence makes a statement that I own that property. I own the property and I own the buildings on the property and further for whatever it's

worth, there are no mortgages on the property. You can't own any property any better than I do. I own it in its entirety and I've got a fence there that says, even if it doesn't say it, it says don't come on the property. If this-- if there were truly juveniles on that property why don't we have a supportive witness here today? This is hearsay at this point. I don't know what that inspector said. It's pure hearsay and I object."

Laurie Dowd: "All right. Do you have any signs on the property?"

Alfred Koch: "No. No. And signs are not part of Riverhead. There are no signs in the town of Riverhead because it's just not that kind of community. No. I'm not-- no trespassing under penalty of law and stuff like that. I have a fence. Plus the building, my house there is occupied and this gentleman is totally wrong. That barn has function as she stands right now. I have pictures to show the areas that are rented out and they are truly functional, truly, truly functional. Further the trash from the house is collected alongside the barn and a visit is paid there once or twice a day, but that's immaterial as opposed to the fact that I have a tenant in that barn. I have indeed a tenant in that barn and I have pictures to testify or which will give all the testimony necessary to show just how locked up that place is.

Now, I have a copy for-- a picture for me and I have a picture for the inspector and we can go through this together."

Laurie Dowd: "Let's do that."

Alfred Koch: "Begin with one."

Laurie Dowd: "All right. What does one show?"

Alfred Koch: "One shows-- it shows a stair giving access to the second floor and third floor of the barn and I believe I heard him and he made-- he cited me in this notice here that the rails are not in good repair and the treads are not in good repair. I have one, two, three, four, five-- five pictures that show the rail and the treads are in excellent repair. Now for somebody to make a judgment like-- no, there's four here-- excuse me, I said five-- I'm amending that to four. For someone to say that the treads and the railings are not in good repair, that goes beyond the subject of judgment. That's not honest. And I have the pictures here to show this. To fully support



it.

Now, how is the Town Board going to get a hold of these pictures?"

Laurie Dowd: "We're going-- if you would allow us to keep a copy, we'll give it to them."

Alfred Koch: "Okay. And everything I said so far--"

Laurie Dowd: "They're going to hear everything you said so far."

Alfred Koch: "Okay. They're-- so this goes beyond the area of subjectivity. This to me is blatantly untrue."

Bruce Johnson: "May I respond to that, Mr. Koch?"

Alfred Koch: "Go right ahead."

Bruce Johnson: "Do you-- to get Mr.-- response to Mr. Koch. The stairway that I was referring to was the exterior stairwell that goes down into the basement area of this building. In my judgment, the building itself was not safe to enter. My observations were made from the exterior of the building looking through all the open doorways and the open windows.

With regard to the interior of the building, I would request that Mr. Koch submit his CO for this building showing all the interior alterations, the stairways, the electrical in this building. It's supposed to be a barn that now seems to have more in it than a barn-- does have a valid CO and has been previously inspected by the Town."

Laurie Dowd: "That raises a point, Mr. Koch. Maybe we could agree-- "

Alfred Koch: "There is no CO. There has never been a CO. I guess I must reiterate that this is a barn."

Laurie Dowd: "I was just going to say, you've referred to this as a barn."

Alfred Koch: "This is a barn."

Laurie Dowd: "It's a two-story barn?"

Alfred Koch: "Two-story-- possibly-- two and a half stories you could say. There's an attic area that's quite inhabitable, you know."

Laurie Dowd: "Okay."

Alfred Koch: "But there is no water to this building. Nobody has ever lived in this building. This is a barn. And the first six or seven years of my-- of my stewardship of the building, it was working as a horse ranch and it was being totally utilized as a barn, b-a-r-n. It's only since these people bought their own place, relocated, that the barn has become a workshop of sort. And that is totally secured and I have pictures here also which will-- for somebody to say that this building shows signs of abandonment, somebody isn't putting on the correct glasses. This is a secure building for whatever I want secure."

Laurie Dowd: "When were these pictures taken, Mister-- "

Alfred Koch: "These pictures?"

Laurie Dowd: "Yes."

Alfred Koch: "In the past 10 days, I guess."

Bruce Johnson: "I'd like to respond that in the pictures that Mr. Koch has, you can clearly see that there are doorways with no doors so I will reiterate my testimony that the building is not secured. The-- we use the term workshop now. If Mr. Koch is intending this to be a workshop, that would require a permit from the Town, a change the use and a full inspection. And to my knowledge, none of those permits have been requested and no such inspections made."

Alfred Koch: "And I think that's a direct evasion of the issue. We're talking about an unsafe structure. So why don't we keep the focus where it belongs."

Laurie Dowd: "Which is on the safety of the structure."

Alfred Koch: "That's correct. That's correct."

Bruce Johnson: "I would like Mr. Koch to enter into the record

under oath that every window in that building is secured, every door-- doorway has a door that has locks that it can be secured, including the basement. If he can enter that in testimony, then I will request a recess. We will go out and we will take digital pictures to show that that is not true."

Alfred Koch: "Right now, I was under the impression that I was doing the asking of questions here. We heard his side. We heard his side. So let's-- kindly somebody take charge here and keep some kind of procedure going here. All right."

Laurie Dowd: "You know, obviously-- "

Alfred Koch: "I'm not interrupting anybody. I'm being interrupted right now by him because he had his opportunity to speak. I'm speaking now."

Laurie Dowd: "Right. But he'll have a second opportunity later. In the meantime, you had just said-- you had just concluded by saying that the building was secured. Are there-- "

Alfred Koch: "The building-- whatever the building is components. There are maybe three contiguous components to this building. All right? The building is there and I have one of my soon to come exhibits of the area that's in use is totally secured. It gets opened three or four days a week for a few hours a day and it's always secured and always locked. So-- because-- now, in the past, the areas that the inspector here says were not secured, they were very functional. They were used for BOCES meetings. So somebody found that sufficiently useful."

Laurie Dowd: "What are these three components you're referring to?"

Alfred Koch: "Well, they're-- there's the area where the stairwell is and then there's the area that's under lock and key. Certainly two components. And then there's a large area upstairs which is accessible through this area here which is quite functional also. But most assuredly there's a major portion of that barn is under lock and key and I have it right here and I'm going to show it."

Laurie Dowd: "Is there a reason you don't have doors on, you know-- on all the buildings?"

Alfred Koch: "The area of the building that the gentleman here makes claim to, there may be six doors that service that area, okay. And this barn is old, I reiterate the barn is old. It is a barn."

Laurie Dowd: "How old?"

Alfred Koch: "What? Well, the house is probably 100 years old, I don't think the barn went up any newer. So the barn is 100 years old. I don't need six door. I don't need six door. And I-- to comply and put two doors in and fix a couple of panes that are broken. Even though they're broken, there's no glass there at all. That's been totally taken care of. I got myself a couple of windows that are not secured with glass and I got myself a couple doors that are not there. They're is still four ways to get in and out of that particular area of the building. And I, at the risk of being repetitious, I'm going to say it again. I own the building. I own the land and there are no mortgages on this. So I'm going to make some determinations. I don't exist at the pleasure of Riverhead. I'm going to make some determinations as to how I take care of my property. There's a fence there that tells anybody and everybody to stay off the property unless they're invited on. And if they violate it, there's the problem. Not the problem with Mr. Koch."

Laurie Dowd: "Well, Mr. Koch. How about going to the rest of your pictures?"

Alfred Koch: "All right. I'd like to show this here. This is a picture of the area that's under lock and key. You have that over there, sir."

Bruce Johnson: "Yes."

Laurie Dowd: "Do those pictures have numbers?"

Alfred Koch: "Yes. You're absolutely right. I should make reference to that. This is seven and eight."

Laurie Dowd: "Okay. Those show areas under lock and key?"

Alfred Koch: "Right."

Laurie Dowd: "All right."

Alfred Koch: "Right. Here, on picture five, I have a-- this is

not a dumpster. It's a collector. This is where-- this is where the trash goes once or twice a day, you know, always, and then it's brought from there to the street. So this is also a functional part of the barn. The people who live in the house take their garbage to this particular box and then they take it from there on the pickup days. This way it doesn't accumulate in or really close to the house. So the barn plays a role there also and somebody is always going by the barn."

Laurie Dowd: "What part of the barn is that kept in? Which of those different areas you refer to? Is it a secured area?"

Alfred Koch: "This is the most northerly portion of the barn."

Laurie Dowd: "Is this one of the secured areas that-- "

Alfred Koch: "It's contiguous-- it's contiguous to the secured area. Yes."

Laurie Dowd: "But it's not in the secured area?"

Alfred Koch: "No. It's outside. It's outside. It's not in anything. It's outside. It's on the north wall. Okay. Now we have ourselves here barn nine, okay. This is a picture of the basement. Okay. It was not secured at the time-- the last time we had a conversation and it made sense for me to secure it. And it's secured. What's on it right now is heavy. It's heavy, for a man under the best of circumstances, to move that he's got his work cut out for him due to the fact that this is right where he'd have to be to remove it becomes twice as cumbersome. This is secure."

Now this is barn nine again. If the inspector wishes to give comment to that."

Laurie Dowd: "Maybe we'll save all the comments for the end. How about finishing up the pictures?"

Alfred Koch: "Pardon?"

Laurie Dowd: "I said I'd appreciate it if you could keep on going through the pictures."

Alfred Koch: "Okay. Here's a third-- this is high. This is-- this cellar takes you high to-- this is a very, very large attic space

here. And it's-- it's got old stuff in it but who's going to make the judgment as to whether it's garbage or not, you know. It's there. That's all. There's nobody occupying that right now. If BOCES doesn't use the barn anymore for whatever reason but BOCES was happy to use it when they used it. Very happy to use it."

Laurie Dowd: "Does this area have a window that can be closed and secured?"

Alfred Koch: "This area has a window and the picture shows it is closed and secured. And it's high anyway; it's three stories up. Or it is a third story.

All right. Here-- here barn six. Tell me when you're ready."

Bruce Johnson: "I'm ready, go ahead."

Alfred Koch: "Barn six shows the northeast corner of the building. Now if I heard the testimony right, he said that there's an open cesspool on the northeast side of the building. There is no cesspool, open or otherwise. None."

Laurie Dowd: "On any part of the building?"

Alfred Koch: "I'm talking about the northeast side of the building."

Laurie Dowd: "How about on any other part of the building?"

Alfred Koch: "It's closed. It's covered. But he made reference to the northeast and this is the picture showing the northeast. There is another one on-- it's just a little drywell, you know, it's like a manhole, but it's secured. Secured, it's covered. If somebody wants to get there, they can get there. There's no fence around it but it's my property and it's the back of the property and nobody but nobody belongs there."

Laurie Dowd: "What's it covered with?"

Alfred Koch: "It's just some boards. Just some boards."

Laurie Dowd: "With no lock?"

Alfred Koch: "No. No. This is really small. Okay. This is

small. And here-- somebody seems to be unhappy with the condition of the facia. Can you imagine facia on a barn? That this is the source of discontent for the inspector? What I have here is-- are pictures of some of the woodshakes and in some respects they're in a state of decay. This is a barn that's 100 years old. The barn is functional. Beneath these shakes are clapboard which-- that's like the sheathing and that's what holds the structure in place. This is eyewash. This is eyewash. It's not new; it's not in good shape. But who cares?

Here is-- oh, this is not particularly-- here's a picture of a door on the front of the building. I have three doors on the front of the building, three doors and they're all closed. None of them are locked, but they're all closed."

Laurie Dowd: "Can they be locked?"

Alfred Koch: "Well, you know, you can make anything be locked. If I ordered a locksmith and a carpenter to do some extensive work so they closed perfectly, yes, they can be locked. But there's no need for that. I'm not trying to keep anybody out. I've already made my statement. I have a fence on the property. That's my statement. Do not come unless you're invited on."

Laurie Dowd: "And that door picture is picture 12?"

Alfred Koch: "Actually it's picture 11."

Laurie Dowd: "Okay."

Alfred Koch: "And picture 12 is another door. It's not a particularly good picture, okay. So it's there. The ones that I've already displayed there, they're the meat of the issue. Okay."

Laurie Dowd: "Okay."

Alfred Koch: "Now, if somebody-- I mean what kind of-- I find myself staring at the situation-- I'm staring with some incredulous that somebody can sit here and tell a whole big story, bring in a third person, and we've got word of mouth on this third person and this is supposed to carry weight. He should be sent home. This is not-- this is not the way a procedure is supposed to be conducted.

I came with everything I need to refute everything he said. And he hasn't even been able to support one thing he said. Because he's

an inspector does not make him infallible."

Laurie Dowd: "That's true. But I'm kind of like letting-- this is your turn to speak and then he'll have another chance. So-- "

Alfred Koch: "All right. Okay. Right now I think I-- for the moment at least, I've said enough."

Laurie Dowd: "Okay. Well, Mr. Johnson, is there anything you want to add?"

Bruce Johnson: "Yes, I would. There is several items that Mr. Koch has entered into testimony today which I would like to rebuttal on. The first issue is that of the fence. There is a split rail fence that partially covers the property but there are at least to my knowledge three driveways, one of which is quite wide, probably in excess of 30 or 40 feet which makes this property very accessible and it's really an attractive nuisance to juveniles that may want to enter the property.

There really is no barrier. There's no sense at all that this is private property. It's very inviting, at least in my opinion. We have our Code Enforcement Officer here which will offer up testimony about his observations so that it won't be hearsay as to the specifics with the juveniles.

The issue that I'm still confused about that Mr. Koch has been vacillating on is whether this is a barn or whether this is a building that has a commercial enterprise. He said that at one point BOCES was using this facility. He said at one point that it was being leased out and that he has a tenant in the building. We need to clarify that. If this is a barn and an unsafe structure that's one thing. If it's a commercial building, it's subject to all the conditions of the New York State Fire Prevention and Building Code and by that code subject to annual inspections.

So, again, we have two different standards depending on how this building is classified. And we haven't gotten a definitive answer from Mr. Koch as to whether this is a barn or a commercial building. If it's--"

Laurie Dowd: "Isn't our focus today on whether or not the building is safe, whatever it's used for?"



Bruce Johnson: "Yes. Coming back to that issue. The reason that we look at facia boards on buildings, particularly older buildings is because that's rain protection. If rains gets into-- underneath the sheathing and starts to get to the wood we have a dryrotting condition and certainly if Mr. Koch has entered into testimony that this building is 100 years old, if during the latter part of that building's life it's been subject to a lot of water exposure because of those facia boards, again, that leads, I think, to credibility that that structure may be unsafe.

I think to refute that, Mr. Koch would need to submit an engineer's certificate that this building has been inspected and get an engineer to certify to its structural integrity. Short of that, I think, my qualifications and the testimony I bear today, is credible today in that the structure is unsafe.

The last thing is I would like to ask Matt White to come up, be sworn in, and give testimony on his observations of the juveniles. We certainly have no reason to fabricate a story of seeing people in the building. We observed that and I think we acted in accordance with good judgment in bringing that to the owner's attention and his refusal, again, to voluntarily secure this building is why we're here today. So, I'd like to have Matt give his testimony."

Laurie Dowd: "Let's hear from Mr. White."

Matthew White: "Good afternoon."

Laurie Dowd: "Would you raise your hand, be sworn? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Matthew White: "Yes."

Laurie Dowd: "All right. Take a seat. State your name and position with the Town?"

Matthew White: "Matthew C. White, Code Enforcement Officer of the Town of Riverhead."

Laurie Dowd: "All right. Did you inspect the property owned by Mr. Koch at 2227 Sound Avenue, Baiting Hollow?"

Matthew White: "This particular point in time when myself, Fire

Marshal Johnson and rental housing inspector, Jack Wery (phonetic) inspected it. That's how I became known and privy to the information of the barn and the house that's also located on the property, Becoming familiar with the property and the barn being unsafe and open. I made random patrols down Twomey Avenue and down Sound. One particular afternoon, I was traveling northbound on Twomey when I observed several subjects looking through-- could see into the barn through a large window. I observed which at the time I thought were several subjects and found out when I got out of the car, it was just juveniles playing in and around the barn. It was about six children. I asked them to please leave, told them it was not safe to being there, that they could get hurt. They were all compliant, they got on their bicycles and drove down Twomey Avenue."

Laurie Dowd: "How would you-- what would you estimate the age of these juveniles?"

Matthew White: "I would say anywhere between nine and 11 years of age."

Laurie Dowd: "Were they all boys or were there-- "

Matthew White: "They were all boys."

Laurie Dowd: "Do you recall the date that you saw this?"

Matthew White: "It was in the early part of September and I do remember it was a Wednesday."

Laurie Dowd: "Did you-- is this the only occasion on which you saw juveniles there?"

Matthew White: "That was the only occasion I saw anybody in the barn."

Laurie Dowd: "All right. Do you have anything else to add?"

Matthew White: "Upon that, I came back and I notified the Fire Marshal and I believe he made the appropriate phone calls from that point."

Laurie Dowd: "All right. Having-- "

Alfred Koch: "I'd like to ask him a question."

Laurie Dowd: "All right."

Alfred Koch: "I just heard him say that to his best recollection, it was sometime in early September."

Laurie Dowd: "That's what he said."

Alfred Koch: "Right. This whole thing was put together-- the whole thing was put together in late August."

Laurie Dowd: "You're right. But the Town Board is considering action at some point in the future and the current situation of the building. And you've introduced evidence about things that have happened since August. So the Town Board is going to be looking at the building as of some future date."

Alfred Koch: "We're missing the point. This gentleman claims he made an observation. He made the observation in early September. That's already reflected here as having happened in August. He made-- he just said I believe it's on the record there, he said to his best recollection it was sometime in early September. This is halfway through August when this thing was assembled, this whole report."

Laurie Dowd: "Okay."

Alfred Koch: "So somebody really, really hasn't got a firm grasp on the situation."

Laurie Dowd: "All right, that will be noted. Is there anything else you'd like to add, Mr. Koch, before we close this hearing?"

Alfred Koch: "Yes. I was going to ask him the age of these alleged perpetrators here. They were nine to ten in your best sense?"

Matthew White: "In my best ability to estimate their age, yes."

Alfred Koch: "All right. And are you familiar with where the location is as you made repeated trips down there, Twomey and Sound, you're familiar with that area?"

Matthew White: "The area."

Alfred Koch: "Have you ever seen any other children there and would you be able to venture a guess as to where these children came

from? Are there any children in that area? Do they live on the Rotkamp Farm? Do they live-- do they hang out in the (inaudible) garage? Do they live at the Ivy Acres there? Where do these children come from if they're nine and ten?"

Matthew White: "I did not ask them where they came from."

Alfred Koch: "You didn't-- right, right. Did you ask them did they come from the building?"

Matthew White: "I explained to them you children should not be playing in here-- "

Alfred Koch: "No. If, in fact, they came from the house itself, that really wouldn't be called a trespass at all, would it? Did you ask them if they-- there's a master house there. Nobody lives in the barn. We have agreement on that. Nobody lives in the barn. There's a master house there. Did you think to inquire were those children inhabitants of the master house?"

Matthew White: "Well, when I said to them they should not be playing in there, it's not safe, they said, okay, we'll leave now. I think if they would have lived there they would have said they live here."

Alfred Koch: "Okay, it's an observation you made. It's a conclusion you drew. You couldn't give me a hint as to where the origin of these children are? You could not give me a hint as to that? That would be a guess, wouldn't it?"

Matthew White: "When I made the comment of you children shouldn't be playing here and they rode their bikes off, I would assume it's safe to say that they did not live on the property."

Alfred Koch: "Oh, how about close to the property?"

Laurie Dowd: "All right. We understand that different minds can draw different conclusions."

Alfred Koch: "All right. Okay."

Laurie Dowd: "Anything else that you'd like to add, Mr. Koch?"

Alfred Koch: "I think that will work for the moment, yes. I

would just like to conclude, you know, that I've heard abandonment, I've heard dilapidated, I've heard unsafe. These-- these are just words. Anybody who owns a Webster-- he can make a word, you know. Where is the support? There's no support here at all. Here's a man who came here to show that I have a building that shouldn't be-- that shouldn't be in existence and he comes with absolutely nothing. For the Town Board is going to see these pictures that we submit-- but they're going to have to just listen to what's on the tape there. They won't be able to hear from me because I'm not going to be present when that Town Board has its meeting, will I? This is my total input for the moment, right there. Am I right or am I wrong?"

Laurie Dowd: "The Town Board is going to be getting all the input that you're giving us right now."

Alfred Koch: "Okay, right. And, and, and they-- there are pictures, they could use a little guidance possibly. I didn't write a volume on the back of each picture."

Laurie Dowd: "Well, but you spoke it and they'll have the pictures and what you said."

Alfred Koch: "All right. I think I've said enough."

Laurie Dowd: "All right. Is there anybody else here to speak on this item? Hearing none, I'll close this public-- "

Bruce Johnson: "I just want to-- "

Laurie Dowd: "Bruce."

Bruce Johnson: "-- Building Department again. Just two final points. Certainly as you had noted, the property-- the decision that the Board is going to make is based on the property's condition today. And anyone of our Board members can certainly, you know, ride by Twomey and Sound and get a first hand look at the building that we have in question here today. We certainly recommend that the Board members do that and I think they'll get a pretty clear picture for themselves.

Again, as my qualifications indicated, read into the record, the Building Department's recommendation is that the property be immediately secured and that it be demolished unless Mr. Koch can produce an engineer's report to substantiate his claim that the

building is, in fact, structurally safe.

I think even from his pictures there are numerous code violations that are present in the pictures and I would welcome an engineer's report that would show this building to be safe and structurally sound. Short of that report being submitted within a reasonable time, my recommendation from the Fire Marshal is that this building be demolished."

Laurie Dowd: "Thank you."

Alfred Koch: "And now I have to reply to that. Let him-- let him get an engineer's report testifying that the building is not sound. He wants me to tear down a building, let him get some good, good evidence that this building doesn't deserve to be up before he demands like I'm an errant schoolboy, that I haven't come in with an engineer's report. Engineer's reports cost money and I don't exist at the pleasure of Riverhead or this particular inspector. Do not. Okay, that's enough for me."

Laurie Dowd: "Okay."

Bruce Johnson: "And to that comment from Mr. Koch, the Chapter 54 law in the town is very clear. The town is not under an obligation to provide that report. The opinion of this inspector based on our training is sufficient to meet the requirements of that code."

Laurie Dowd: "I'm sure the Town Board will evaluate based on what both of you have said. All right. So we'll move to the next hearing, I guess. We're going to close this public hearing."

Alfred Koch: "Miss, there's something else here. There's something else on the agenda here."

Laurie Dowd: "Yes, there is. We're going to go on to that."

Alfred Koch: "Oh, excuse me."

Public Hearing closed: 1:54 p.m.

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Public Hearing opened: 1:54 p.m.

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York at 1:05 p.m. on September 30, 1999 Chapter 54 Unsafe Buildings and Collapsed Structures, property owned by Alfred and Marie Koch, Trustees, located at 1020 Twomey Avenue, Baiting Hollow, New York."

Laurie Dowd: "All right. We'll open this public hearing on the property located at 1020 Twomey Avenue, Baiting Hollow, New York. We'll first hear from the inspector of the property. Would you be sworn in, please?"

Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?"

Richard Gadzinski: "I do."

Laurie Dowd: "All right. State your name and position with the Town of Riverhead, please."

Richard Gadzinski: "Richard E. Gadzinski. I work in the Building Department and my current title is Electrical Inspector."

Laurie Dowd: "All right. What are your qualifications to review unsafe structures pursuant to Chapter 54-- "

Alfred Koch: "Could I have the name repeated, please?"

Laurie Dowd: "Would you repeat your name?"

Alfred Koch: "Yes, please. The last name, please."

Richard Gadzinski: "Gadzinski."

Alfred Koch: "Gadzinski, Richard Gadzinski. Thank you."

Laurie Dowd: "Could you go through your qualifications, please?"

Richard Gadzinski: "I've been doing code enforcement work in different townships for about 14 years. I'm New York State certified for enforcement of New York State Uniform Fire Presentation and Building Code. I've had numerous courses dealing with public and commercial buildings, structurally safe and so forth."

Laurie Dowd: "All right. Did you inspect the property owned by Mr. Koch located at 1020 Twomey Avenue, Baiting Hollow?"

Richard Gadzinski: "Yes, I believe I did."

Laurie Dowd: "When did you perform that inspection?"

Richard Gadzinski: "On August 20, 1999."

Laurie Dowd: "What did you find when you did that inspection?"

Richard Gadzinski: "There is a lot, I guess for better description it would be to the rear of the-- or to the southerly side of the portion that we were just discussing under the prior Chapter 54."

Laurie Dowd: "That's a lot on Sound Avenue?"

Richard Gadzinski: "The lot on Sound Avenue. This is south of that on Twomey Avenue."

Laurie Dowd: "All right."

Richard Gadzinski: "It is vacant except for a foundation which has been there for quite some number of years."

Laurie Dowd: "Would you describe the size of the foundation?"

Richard Gadzinski: "The exact size, I don't know. Probably 25 by 35, 25 by 40, something of that nature. Approximately eight feet deep."

Laurie Dowd: "What's the condition of the foundation?"

Richard Gadzinski: "The foundation has been exposed to the weather for a number of years. The reason for the citing of the foundation is that it presents a dangerous condition to the property itself and to the neighborhood. At the time of the inspection, there was household garbage and debris deposited within the foundation. There was no fencing around the foundation. There was an attempt to put up a fence by Mr. Koch at some time prior to my being there on the 20th. The fencing that I observed at the time I did the inspection and at the time I did the posting which I believe is the 27th of that month, was a black filter fabric, approximately two foot in height in



some locations, staked up around the property but the majority of the fencing or filter fabric was pretty much at ground level. Even if it was stretched to the entire height that it was capable of being extended to, it's not anything that would be secure to keep anyone from wandering into or falling into the hole.

The area is pretty much open to the south of that with farm fields, corn fields and during the winter time it is an area where people with snowmobiles would be cruising around.

Just to the barn across the street, some number of years ago, even though there was a barn there, a snowmobile did run into it. So for that reason we took the position that it's an open, unsafe structure, unsafe construction site.

As to the integrity of the foundation, I didn't really observe that part."

Laurie Dowd: "What's your recommendation for Town Board action on this matter?"

Richard Gadzinski: "My belief is that if the foundation is structurally sound and if the property owners, Mr. and Mrs. Koch, do wish to use it for a structure, and they do obtain a building permit for it and do what is proper to contain it so that it is a structure and not something that somebody could fall in to, I would not oppose that. If it's just going to sit there and remain as it is, then I consider it to be an unsafe construction site and something should be done to secure it or if, in fact, it is a deteriorated foundation, that it should be removed and the hole filled in."

Laurie Dowd: "What would be the minimum suitable method to secure it?"

Richard Gadzinski: "If the foundation were structurally sound and Mr. Koch did wish to use it and he did get a building permit for it, then I think it should be treated as a swimming pool under the New York State Uniform Fire Prevention and Building Code as far as fencing requirements. That would be a chain link fence around the entire perimeter of the excavation and a minimum requirement would be four feet in height and that the fence be no more than two inches above the grade around the-- the bottom of the fence be no more than two inches above the grade around the excavation.

If Mr. Koch wishes to put a gate in for some reason, it should be really padlocked because it's not like a swimming pool where someone would want to be using it but if he wanted access for whatever reason it should be a secured gate, not just a latch."

Laurie Dowd: "Is there anything else you'd like to add to your testimony before we conclude it?"

Richard Gadzinski: "No."

Laurie Dowd: "Mr. Koch, have you got any input on this matter?"

Alfred Koch: "Yes, I do, yes. Could I ask Mr. Gadzinski if he remembers where he was on the 10th day of March, 1999?"

Laurie Dowd: "All right. Do you remember, Mr. Gadzinski?"

Richard Gadzinski: "I can take a guess at that one, yes. A possibility that we were sitting in Justice Court."

Laurie Dowd: "All right. Does that answer your question?"

Alfred Koch: "It answers that question, yes. All right."

Richard Gadzinski: "I wasn't sure of the date, sir, but I understood that's what you were asking."

Alfred Koch: "Okay. Would you be good enough to describe to this hearing here how that particular case was resolved and what was the case about? What was-- "

Laurie Dowd: "Mr. Koch, were you present at that?"

Alfred Koch: "Yes, I was."

Laurie Dowd: "Then let's hear it from you."

Alfred Koch: "Okay. We'll do that. Okay. I'm holding in my hand here a disposition. All right. On March 10, 1999 before the Honorable Richard Ehlers there was a trial for the lack of a better word. That's what they refer to here as a trial-- "

Richard Gadzinski: "It was a trial."

Alfred Koch: "And it was-- it's called unsafe building. Okay. We're talking about the same foundation with the same inspector. This thing was disposed of, dismissed, no inspector's report. Closed. Closed. This is over. How many times am I going to have to tackle this same situation? Here is the disposition. It's closed. Dismissed. How-- where is-- where's the propriety in calling the hearing in the first place? Let's say I didn't have the barn to deal with. Why should I have to spend an afternoon coming here to deal with something that's already been before-- before a Justice Court? Are we going to overturn what the Justice said? This is absurd that I even have to be here."

Laurie Dowd: "It's something for the Town Board to consider but I do-- I would suggest to you that those are different forums and that they look at different things so that the way one group decides on one thing may not mean that they decide the same way on this particular instance."

Alfred Koch: "Unsafe building is unsafe building and, and, and, I don't-- I'm not going to permit myself to be run through the mill where I'm going to attend a different hearing on a bi-monthly basis. It's not going to happen. This is wrong. It's wrong and it's clumsy and it's amateurish. Somebody is in the wrong trade. This should-- perhaps the Town Board doesn't know anything about this disposition. If the inspector initiated this proceeding, then shame on him. Here is what happened on March 10, 1999.

And if-- I'd like-- if I could just bring to the court's attention here some of the things that were cited and in his most recent observation. His most recent observation got a little bit more interesting in the sense that he's citing me for no hot water. This is a foundation by his own testimony. No hot water. And as you go a little further, number 30 says no heat. In a foundation. What-- how am I supposed to be expected to respond rationally to something like that? That's just plain dumb. That's just plain dumb."

Laurie Dowd: "How do you respond to the concerns that this is a hole in the ground that's snowmobilers could end up flying into?"

Alfred Koch: "Snowmobilers, first of all, don't belong on my property and, secondly, I have pictures here with regard to the safety of this particular structure. I have the pictures here. Mr. Gadzinski I don't believe has any pictures. Could I ask him, does he have any?"

Richard Gadzinski: "No, sir, I don't."

Alfred Koch: "No sir. Does not have any pictures. I have pictures. Okay. I'm going to hand them out."

Leroy Barnes: "While Mr. Koch is preparing, Leroy Barnes, Building Department Administrator. I'd just like to point out that Mr. Koch is alleging that the case was resolved in Justice Court under Chapter 54. I believe, it's my understanding that Judge Ehlers felt that the case should have been handled as a Chapter 54 and a proceeding as a (inaudible) in front of the Town Board. And I believe that's why Justice Ehlers dismissed the case. That's just an observation. I could ask-- "

Alfred Koch: "An observation."

Leroy Barnes: "I can ask the Justice to provide a letter to me as to why he disposed of that case and go through the minutes of the Justice Court."

Laurie Dowd: "Well, feel free to do that."

Alfred Koch: "It says it right here, why it was disposed of."

Laurie Dowd: "We'll make a copy of that and we'll submit that to the Town Board, too, so they can look at it."

Alfred Koch: "Yes, Riverhead doesn't have the authority to spend-- make me spend the rest of my life defending against these flimsy, flamsy allegations. It doesn't have that right. If-- you're not supposed to be conspiring against me because I own six properties in Riverhead and I pay a very significant tax bill to Riverhead. And, and, and when I have to -- I have to make a response to talk about no hot water and no heat in a foundation, how do I address that? Does Mr. Barnes have a response to that?"

Laurie Dowd: "Well, let's go through the pictures that you have."

Alfred Koch: "Yes, okay. Take five, please, Mr. Gadzinski."

Laurie Dowd: "Picture five?"

Alfred Koch: "Yes."

Laurie Dowd: "Okay."

Alfred Koch: "All right. That, for me, is a view from the street, Twomey Avenue, focusing on the foundation which is maybe-- it might be 100 feet back. I can't say for sure. Shame on me, but it's deep. All right. And the lawn is cut. It gets cut good ways. Not all the way up to the foundation and there's good reason for that. Because right now it's infested with poison ivy and we wouldn't want to get a snowmobiler getting infested with poison ivy on my account. So we don't measure any further than we cut."

All right. Here's another violation that the inspector found me guilty of was no ingress and egress. Here's a picture of the foundation showing a ladder. I haven't got stairs that's cellar stairs. The house never got that far. I bought this at an auction and the foundation was there and, yes, there was a building permit issued originally. By now, I'm sure that expired. But there was a building permit when the foundation was put in and the foundation is still sound. Rain is not supposed to waste away a foundation otherwise whoever built it didn't get good value for his dollar. That's the foundation. It's as good today as it was eight years ago. I-- "

Laurie Dowd: "Is that when the foundation went in?"

Alfred Koch: "Approximately eight, nine, maybe even 10 years. I own the property maybe four years. Okay. I bought it-- it's contiguous to my property as somebody just stated and I'm happy to own it. I will build on it someday because the foundation has value but it will be when the spirit moves me, not when somebody decides to tell me to move on it. In the meantime-- in the meantime, submitting these other photos from different angles here. This is totally secured. There is no snowballer in history who's going to snowball through this kind of foliage and end up in my foundation. It's not going to happen. Not going to happen."

In fact, over the course of years-- over the course of years, some very fine looking trees have grown. They were never planted. They just got there, cedars, and when I do come in there at some point to make a house there, we are going to lift those trees out and put them in a good spot. This is an oasis, ma'am, at the risk of me being dramatic, this is an oasis. You're looking at a former cornfield that's no longer in utility and you've got yourselves something that looks cute and it certainly keeps the riff-raff away. Anybody who

gets in here, he does so at his own peril. And the presence of the ladder there is to let somebody in or out if he has a need to get in or out. That's also, in fact, there is ingress and egress and the inspector says there was not. There is. Was and is.

And the fence that I put up, let me give testimony with regard to the fence. The fence-- it's the worse fence imaginable. Worse possible fence imaginable. I look to spend as little as possible on it and it will keep nobody out if somebody wants to get in. Anybody can get in just like they can get in over a four foot fence. But there's no way that anybody could fall into this foundation now. No way. The fence keeps somebody from ever falling in. If he wants to climb in and walk along the edge of the foundation, yes, he could jump in or he could fall in. But he could never fall in by accident. Couldn't be done. So the fence as cheap as it is and as shabby as it is, and as lousy an installation as we did, it has function. It does the job."

Laurie Dowd: "How far is this fence from the foundation?"

Alfred Koch: "It's on the foundation. It's actually on the foundation. You know. It's right there."

Laurie Dowd: "And what's it made out of?"

Alfred Koch: "It's-- I don't even know."

Laurie Dowd: "It's like that plastic stuff or is it metal?"

Alfred Koch: "It's, no, it's not metal. It's poor. Whatever it is-- I don't, you know, I don't want to say something I can't support. It's a cheap, cheap fence, the cheapest fence I could find."

Laurie Dowd: "When did it go up?"

Alfred Koch: "A few years ago. A few years ago. And it will keep nobody out but it will keep anybody from falling in who doesn't want to fall in."

Laurie Dowd: "Do you ever go out to this property in the winter?"

Alfred Koch: "Do I go out to the property in the winter? Yes, I have tenants in the master house and I go collect my rent there and

yes I enjoy looking at the property. I like the oasis, if you will."

Laurie Dowd: "Well, I just felt the vegetation might die back considerably in the winter."

Alfred Koch: "Not these cedar trees. These cedar trees, they pose a serious impediment to anybody who wants to snowball through there."

Laurie Dowd: "All right. Do you have anything else to add?"

Alfred Koch: "No, I guess that will suffice."

Laurie Dowd: "Do you gentlemen have anything else to add, from the Building Department?"

Richard Gadzinski: "Just one thing on Mr. Koch's picture number two."

Laurie Dowd: "Yes."

Richard Gadzinski: "Which depicts a ladder that is in the foundation. I would like to state that when I was there and did my observations, that ladder was not in the foundation."

Laurie Dowd: "All right."

Richard Gadzinski: "And also picture two depicts the garbage that was in the bottom of that excavation."

Laurie Dowd: "All right, Mr. Koch, was that ladder added?"

Alfred Koch: "Well, let me respond to that. That ladder's been there a long time. Maybe Mr. Gadzinski doesn't see everything he's supposed to see. He saw the absence of a hot water tank there which is an astute observation. He also saw the absence of a boiler there which is another astute observation. Maybe if he looked a little bit better he would have seen this ladder there. It's been there a long time."

Laurie Dowd: "All right. Anything else?"

Alfred Koch: "That's enough."

Leroy Barnes: "I would just-- in discussions with Mr. Gadzinski and we discussed this case prior to, I think the Department itself is going to recommend that a four foot chain link fence be erected around the foundation. If he decides to use it for construction of a single family dwelling, he certainly is entitled to either renew or apply for a new building permit and commence the construction. In the meantime, we have an expired building permit. We have an open and exposed foundation that is hazardous and unsafe to the public and I would think that those children that were in that barn can certainly fall into this ditch and be injured. So I believe it's on Town record now that this safety issue exists and it could be a very serious liability to Mr. Koch and to the Town of Riverhead.

So we're going to recommend as the Building Department to put up a chain link fence around the property to secure the foundation."

Laurie Dowd: "All right. Is there anybody here that wants to speak on this particular item? Hearing none, then this public hearing will be closed. Before you go, Mr. Koch-- "

Alfred Koch: "I'm here."

Laurie Dowd: "I want to take a copy of that, that disposition of the Justice Court case. Could you keep that out so we can make that copy?"

Alfred Koch: "Sure."

Public Hearing adjourned: 2:14 p.m.

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Public Hearing opened: 2:15 p.m.

Barbara Grattan: "The time of 2:15 has arrived. I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York at 1:15 p.m. on September 30, 1999 for Chapter 54 Unsafe Buildings and Collapsed Structures property owned by James Parkinson and Marie Parkinson, located at 2892 North Wading River Road, Wading River, New York. This public hearing is opened at 2:15."

Laurie Dowd: "All right. Are we ready to start this public hearing? All right, then we'll open this public hearing on the



property at 2892 North Wading River Road, Wading River, owned by James Parkinson and Marie Parkinson. First we'd like to swear in the town officer. Raise your hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?"

Jack Whery: "Yes."

Laurie Dowd: "Thank you. Would you state your name and position with the Town of Riverhead?"

Jack Whery: "Jack Whery, I'm a housing inspector. I'm also a certified code enforcement officer, State of New York."

Laurie Dowd: "And-- "

Jack Whery: "I've been with the town housing department-- building department for 16 months."

Laurie Dowd: "All right. And do you have any additional qualifications to review unsafe structures under Chapter 54?"

Jack Whery: "No, I don't. The only other personal experience I have. I was president and manager of a mobile home park out in Montauk for about five years."

Jack Whery: "All right. Did you inspect the property owned by the Parkinsons located at 2892 North Wading River Road?"

Jack Whery: "Yes, I did."

Laurie Dowd: "When did you perform that inspection?"

Jack Whery: "July 21, 1999."

Laurie Dowd: "What did you find when you did that inspection?"

Jack Whery: "That the-- there's two mobile homes on that piece of property, two trailers, and the one in the rear, the larger of the two, I inspected and found out it was structurally unsafe and also structurally dangerous."

Laurie Dowd: "And why would you describe it as unsafe and dangerous?"

Jack Whery: "Well, the-- apparently the building had been vacant for a while. The day that we were there, the door was off, the front door was off or opened, and you could see that water had gotten into it. Water had deteriorated the underneath carriage. The main frame of the unit which is steel was deteriorating to the fact that when you walked on the floor, you could feel the floor being very unsafe when you were inside the structure."

Laurie Dowd: "All right."

Jack Whery: "It wasn't maintained properly. Like I say, it was obviously vacant for a while. I don't know when someone lived there last."

Laurie Dowd: "And it was not secured from public entry?"

Jack Whery: "No, it was not."

Laurie Dowd: "Was there anything else open besides the front door?"

Jack Whery: "No, but it just looked like it had been abandoned."

Laurie Dowd: "What's your recommendation for Town Board action on this matter?"

Jack Whery: "That the building should be removed from the property."

Laurie Dowd: "All right. Before we move onto the additional testimony, is there anything else you'd like to add?"

Jack Whery: "No. I think I went over my sheet, my paperwork that's done by us-- required to be done by us. If you want me to go over each item, I can."

Laurie Dowd: "I guess we don't really need that at this point. We have the paperwork as part of the record."

Leroy Barnes: "Leroy Barnes, Building Department Administrator. I had the pleasure to speak to Mr. Parkinson last month on August 27th and certainly we have come to some kind of terms that he would make an attempt to apply to the Zoning Board of Appeals for permission to

replace those structures or structure. He has very well much cooperated up to this point and, in fact, he's even hired a surveyor which is about to be completed and he's going to be making application to the Zoning Board of Appeals because that's required to replace a mobile home."

Laurie Dowd: "To be replaced-- "

Leroy Barnes: "It is required to replace a mobile in the Town of Riverhead is to appeal to the Zoning Board of Appeals because it's not a permitted use in Wading River and it's to replace-- "

Laurie Dowd: "Well, I understand that. But it seems to me-- pardon me for interrupting you, but so is he proposing to deal with the unsafe structure by replacing it with a new-- "

Leroy Barnes: "Yes, he is, exactly. So what we would request even though we had adjourned this one time, we're asking you for another adjournment to next month, to October 28th, at 1:05 p.m. And I believe Mr. Parkinson would agree to that."

Laurie Dowd: "You're Mr. Parkinson, sir?"

James Parkinson: "Yes, I am."

Laurie Dowd: "And you would agree to that?"

James Parkinson: "Well, I would agree to coming back but I would like to get my say on this. I agree with most of what Mr. Barnes is saying. But I'd like to make a statement on the record also."

Laurie Dowd: "All right. We'd like to hear that."

James Parkinson: "First-- "

Laurie Dowd: "Oh, wait, maybe we should swear you in since you might be making some factual statements. So if you would raise your right hand. So you swear to tell the truth, the whole truth, and nothing but the truth so help you God?"

James Parkinson: "Yes, I do."

Laurie Dowd: "All right. Please continue."

James Parkinson: "My name is James Parkinson and I own the property in question here. It was not my intent originally to have these rented. This means nothing to the Town Board at this point but I was kind of flimflammed by a local-- not an authority, but a local leader, Vinny (inaudible), who told me-- asked me to do him a favor and rent to these people. They're friends of his. And they weren't, in fact, friends of his. They were tenants of his that he wanted out and he got me to rent to him.

Subsequent to that all, I did have the place rented and Mr. Carl-- excuse me, find his name here, but Carl Clump (phonetic), that's the name I-- rented to his wife, Lori (phonetic). And they were terrible, terrible tenants, terrible residents for the Town of Wading River and I concede that. I was in a dilemma with them all the time either trying to get my rent or trying to keep up with the maintenance of the property.

The final straw was that Mr. Clump and his wife had some marital disputes and it erupted into fistfights apparently because he was arrested. He went to jail and this is the time when the place went into total disrepair. During the time in jail I was unable to collect my rent from them-- "

Laurie Dowd: "Around what time was that? What year?"

James Parkinson: "That was approximately the end of '98. I had no way of contacting him because he was in Riverhead Jail. This is what I was informed of. I was going to go through a dispossession situation and I used Mr. Munzel, a local attorney in Riverhead. And back and forth, I decided to wait it out until he came out of jail. The place did go into disrepair. It wasn't abandoned by no means, by me anyway. I have pictures showing the disrepair they did to the place.

Again, I did not want to go into the property until I was able to get in touch with either Mr. Clump or his wife for fear of legal retributions. That they'd say I burglarized the place or entered illegally. His mother agreed to start to clear the place out with his sister, Mrs. Diane Weldon. They started clearing it out. That's when the door was apparently ripped off the hinges."

Laurie Dowd: "Around when was that?"

James Parkinson: "That was I guess March of this year. They

were clearing the place out and finally left the place with just the trash and I've been cleaning trash out since then. As of right now, the place is, well, I guess you'd call it broom clean. It's not immaculate. There is no more trash in the place. There's-- most of the trash is removed from the outside of the place. I was waiting for the Town of Riverhead to have a collection for hazardous material, automobile batteries. And, well, I finally found a place that will take them, a scrap dealer on Route 112. I plan to package up all the batteries, which are numerous, probably about 10 batteries, car batteries, which are noted in the report. But I plan to remove them.

The building has since been secured."

Laurie Dowd: "Has it?"

James Parkinson: "I locked the back door, re-hung the front door and locked the front door. There was one window that I haven't replaced yet because I had to use it to remove the furniture. There was some sofabeds that I had to take out through a window but there's no broken glass. The sofabed was taken out into a porch. The porch is closed. So it's not an open window that's exposed to elements.

I disagree with it being structurally unsound. There was no structural damage to the metal undercarriage or anything to that-- it's not a pretty site to look at. I can see that.

If you go through the reports, structurally unsafe, I can say it's not structurally unsafe or dangerous because there's no broken windows, it's secure."

Laurie Dowd: "How does it feel when you walk on it?"

James Parkinson: "There's no bounce in the floor whatsoever. There is absolutely no bounce in that floor whatsoever. This was installed as to code when it was put in. There was no code at that time approximately prior to '65. I have a certificate of continual use of compliance I guess which should show that it's legal the way it was put in then. Would it be code today? No. I can say that but neither would half the houses or dwellings in the Town of Riverhead."

Laurie Dowd: "So you're saying it's probably at least 34 years old?"

James Parkinson: "No. This mobile home is a 1956 mobile home.

I own it for 12 years. If I went through any of these things, it says inadequate maintenance. At the time it was strewn with garbage. It's been corrected. Dilapidated. It's not dilapidated. Obsolete, possibly, but, again, so are half the houses in the Town of Riverhead or any other municipality. Abandoned. No. Exterior doors missing. It was knocked off the hinges. It's been replaced. Broken windows are all replaced. It has no holes in the floor other than the heating ducts. It has heat, it has hot water. It has electric. The electric account is since turned on under my name. It was shut off for lack of payment to the Clumps in March, I believe, and I had it-- once I went in and cleaned the place up I had electric put back on just so I could do the work. It has heat, it has hot and cold running water.

I would like to replace them. I've gone through the procedure of starting my Board of Appeals application. In order to do that, I was informed I had to have an up to date or brand new survey done showing an overlap of the proposed new structure which I contracted Mr. (inaudible) in Wading River to do. I was in his office today and he said he should have it done within a week, possibly two weeks, and at which time I will submit papers to have these removed and possibly a new one replaced."

Laurie Dowd: "All right. So you'll pursue that."

James Parkinson: "I will-- "

Laurie Dowd: "We'll adjourn it to the next month."

James Parkinson: "I'm not looking to fight with the Town or be a bad neighbor. I understand it's not the prettiest thing for neighbors to look at."

Laurie Dowd: "I understand that in the interim the Town Building Department will probably take another look at the property to update their records in light of all the additional work you've done on the interim. Right."

James Parkinson: "Okay. If-- I have no objection to them entering the property if they want to enter the property. It's not inhabited right now but, like I say, it has electric. If they want to turn the electric on, they have to open the breaker box on the wall-- on the pole and turn the electric on."

Laurie Dowd: "Do you have anything else that as Inspector you'd

like to know for us? So we'll just adjourn this hearing then to be continued again October 28th.'

Leroy Barnes: "Correct."

James Parkinson: "Will I receive a formal notice?"

Leroy Barnes: "If you don't mind, we'll just verbalize it right now for the record since you're here. It will be October 28th at 1:05 p.m."

John Huck: "I have one question."

Laurie Dowd: "Sure."

John Huck: "If I may, John Huck, Wading River."

Barbara Grattan: "Get closer, John, so we can get you on the record."

Leroy Barnes: "Come on up here, Mr. Huck. And you are welcome to use the microphone, sir."

John Huck: "I was just curious whether the plywood structures that are added onto the two trailers, if that square feet-- footage, would be added to the square footage of the new trailers that the homeowner proposes to put in. Or would he just replace the actual square foot size trailers that are there now. Both units have approximately 14 by 10 plywood additions onto the trailers."

Laurie Dowd: "Can you answer that, Leroy? I don't know what he's applied for-- "

John Huck: "Plywood additions on trailers."

Leroy Barnes: "Sir?"

James Parkinson: "I don't know what you're talking about either, Mr. Huck."

John Huck: "Well, you have two trailers, right, both of them have platforms with-- "

James Parkinson: "One has an enclosed front porch and an add on

room that was put on prior to 1965 which was in the original survey and certificate of occupancy which-- well, non-existant certificate of occupancy-- it's a, I think they call it a continued use."

Unidentified: "Non-conforming, pre-existing use."

James Parkinson: "So as far as what I'm proposing that it be up to the Board of Appeals. What is there right now is undersized and the Town of Riverhead would not accept anything that size. In other words an eight foot trailer is not acceptable anywhere and neither is I think a 10 foot trailer, the size it is. Neither one are acceptable. There's a storage shed that stands on the property which also would probably be removed but I don't know how-- where we're going as far as the square footage. I'm not looking to have any Taj Mahal moved in. I'm just looking something that will meet the code, town acceptance."

Leroy Barnes: "Well, I think, the answer to your question, Mr. Huck, I believe that when Mr. Parkinson submits his survey and shows the proposed locations and sizes of the mobile homes, certainly will determine whether or not they meet what the code requires and the Zoning Board of Appeals could address that. I would also suggest that when you do apply for the Zoning Board of Appeals if you decide that you want to have any accessory structures on it, I would suggest that you include them in your survey as proposed. So you don't have to go back to the ZBA twice. I'd hate to see you go back twice. That's all I'm telling you."

James Parkinson: "Well, I could let you-- for the record, the survey I had commissioned through Mr. Tranchon (phonetic) is a approximately 14 by 60 mobile home, New York State approved with-- made of 2 by 6 construction, a peaked roof, etc, with a 4 foot by 6 foot front entrance deck and a 10 by 12, I believe, rear deck, not-- neither one enclosed."

Leroy Barnes: "So there will be open decks. So I would suggest--"

James Parkinson: "With a 30 foot setback from the main road to the front of the deck."

Leroy Barnes: "So these things are going to be depicted on the survey?"



James Parkinson: "There will be an overlay showing the new depicted-- proposed when I resubmit the-- when I submit for the first time."

Leroy Barnes: "So I would-- so then for the record you are saying that probably any accessory structures attached to the original mobiles will be removed to replace."

James Parkinson: "The enclosed porch, the concrete paddings-- they're not pads, they're patios or whatever you want to call them. They're all broken anyway at this point. I would hope to have all removed and clean up the area."

Leroy Barnes: "Okay."

James Parkinson: "I'm not putting it in as a rental property. I'm putting it as the use of my family, my six children. I have been a summer resident of Riverhead all my life and I'd like to continue that way. I'm not looking, to be honest, I'm probably never going to live there year round, maybe one of my kids would. My mother lives there year round."

Leroy Barnes: "That's certainly a nice place to have and be in a summer community like Wading River."

Laurie Dowd: "Okay, well, we probably should-- if we haven't already, this public hearing part is closed, right?"

Barbara Grattan: "No, not yet."

Laurie Dowd: "Well, we're not closing it but we'll adjourn it."

Leroy Barnes: "We are going to adjourn the hearing."

Barbara Grattan: "To October 28."

Laurie Dowd: "So if you guys want to continue-- "

Leroy Barnes: "Thank you."

Public Hearing adjourned to October 28, 1999

*Barbara Grattan*  
*Court Clerk*